

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

SHAWN I. LAINFIESTA,

Plaintiff,

v.

**9:11-CV-1099
(NAM/CFH)**

**LIVERMORE, Block Sergeant,
Great Meadow Correctional Facility;
BERNARD WHITTIER, Correction Officer,
Great Meadow Correctional Facility,**

Defendant.

APPEARANCES:

OF COUNSEL:

SHAWN I. LAINFIESTA
95-A-2531
Eastern New York Correctional Facility
Box 338
Napanoch, New York 12458
Plaintiff, *pro se*

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
The Capitol
Albany, NY 12224
Attorney for Defendants

JAMES SEAMAN, ESQ.
Assistant Attorney General

NORMAN A. MORDUE, U. S. DISTRICT JUDGE

ORDER

The above matter comes to me following a Report-Recommendation by Magistrate Judge Christian F. Hummel, duly filed on the 9th day of May 2013. Following fourteen (14) days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-

Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. The defendants' motion for summary judgment (Dkt. No. 28) is:

(A) granted as to Lainfiesta's conspiracy claim; and

(B) denied as to Lainfiesta's Eighth Amendment (1) excessive force claims against defendants Livermore and Whittier; (2) medical indifference claim against defendant Livermore; and

(C) Lainfiesta's Fourteenth Amendment claims are dismissed from this action.

3. The Clerk of the Court shall serve a copy of this Order upon all parties and the

Magistrate Judge assigned to this case.

IT IS SO ORDERED.

Dated: May 31, 2013
Syracuse, New York


Honorable Norman A. Mordue
U.S. District Judge